

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

2018 DEC -4 PM 5:27

ZIP TOP, LLC AND FINELL CO., LLC,  
PLAINTIFFS,

V.

BLUEAVOCADO CO.,  
DEFENDANT.

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CAUSE NO. 1:18-CV-276-LY

CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY

**ORDER**

Before the court in the above-styled and numbered cause is Rule 12(c) Motion for Judgment on Trade Dress Claims filed November 6, 2018 (Dkt. No. 28). The motion requests a judgment that Zip Top® containers and packaging to not infringe on any valid BlueAvocado trade dress rights in its re(zip)® bags and packaging. BlueAvocado admits in its Second Amended Answer and Counterclaims (Dkt. No. 26) that the trade dress of Zip Top® containers and packaging is distinguishable from re(zip)® bags and packaging. Accordingly,

**IT IS THEREFORE ORDRED** that Rule 12(c) Motion for Judgment on Trade Dress Claims filed November 6, 2018 (Dkt. No. 28) is **GRANTED**. The court hereby renders judgment that Zip Top® containers and packaging does not infringe any valid Blue Avocado trade dress right in re(zip)® bags and packaging.

SIGNED this 4th day of December, 2018.

  
LEE YEAKEL  
UNITED STATES DISTRICT JUDGE